IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3571 OF 2005

Shri Vasudeo Bhagwant Konde : Petitioner

(Orig. Defendant No.1)

V/s.

Shri Ravindra Vinayak Datar & Ors. : Respondents

(Orig. Plaintiffs)

...

Mr.D.M.Gupte for the petitioner.

Mr.Uday Warunjikar for the respondents.

...

CORAM : S.A. BOBDE, J.

July 4, 2005.

P.C.:

1. The defendant no.1 has challenged the order below exh.58 in the suit filed by the respondents. By the impugned order, the trial Court has allowed the amendment to the plaint. The respondents filed a suit initially for restraining the defendants from setting up electric motor and electric connection for a well. The suit was filed on 19.1.2004.

2. On 23.2.2004 the defendant filed a pursis stating that he has already installed electric motor and election

connection. As a result of this, the plaintiffs sought to amend the plaint to bring the aforesaid act of the defendant on record and has also sought consequential mandatory injunction calling upon the defendants to remove the electric motor. This amendment application is challenged. I see no merit in this petition, in view of the fact that the amendment has become necessary because of the act of the defendant who appears to have performed an act when the matter was sub judice. However, without making any comment on it, it is clear that the amendment is necessary to decide the real controversy between the parties and to bring the existing situation on record.

3. The petition is, therefore, dismissed.

S.A. BOBDE, J.